EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) (NO. 2) ORDER 2021

2021 No. []

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order amends the list of proscribed organisations in Schedule 2 to the Terrorism Act 2000 ("the Act") by adding "The Base" to the list of proscribed organisations "concerned in terrorism".

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This Order comes into force on the day after it is made. Although the 21-day convention does not apply to affirmative instruments, an instrument which imposes duties that are significantly more onerous than before should not usually be brought into force earlier than 21 days after it is made. This is such an instrument, as it has the effect of applying the offences in sections 11 to 13 of the Act to the organisations. However, any significant delay between the laying and coming into force of the Order would alert the organisation to its impending proscription and may result in pre-emptive action by the organisation's members designed to circumvent the provisions of the Act and/or the criminal law.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 Subject to paragraph 4.3, the territorial application of this instrument is the whole of the United Kingdom.

4.3 Section 17 of the Terrorism Act 2006 makes provision for extra-territorial jurisdiction and has effect that where a person takes an action outside of the United Kingdom that if done in a part of the United Kingdom would have amounted to an offence under section 11 of the Act, they shall be guilty of that offence. Section 17 similarly applies to the offences under sections 12 and 13 of the Act, but only applies if at the time of committing the offence the person is a United Kingdom national or a United Kingdom resident.

5. European Convention on Human Rights

5.1 The Home Secretary Priti Patel has made the following statement regarding Human Rights:

"In my view the provisions of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No. 2) Order 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 3 of the Act provides a power to proscribe, by Order, an organisation which commits or participates in acts of terrorism, prepares for, promotes or encourages terrorism or is otherwise concerned in terrorism. Section 21 of the Terrorism Act 2006 amended the grounds for proscription in section 3 of the Act to include organisations which unlawfully glorify the commission or preparation of acts of terrorism. Section 3 also allows the Secretary of State, by order, to remove an organisation from the list of proscribed organisations in Schedule 2 to the Act, or amend the Schedule in some other way. Twenty-seven Orders have been laid previously, in 2001, 2002, 2005, 2006, 2007, 2008 (2), 2010, 2011, 2012 (2), 2013 (2), 2014 (3), 2015 (2), 2016 (3), 2017, 2019 (2), 2020 (2) and 2021 (1).

6.2 The Secretary of State has regard to several factors in deciding, as a matter of discretion, whether or not to proscribe an organisation. These are:

- the nature and scale of the organisation's activities;
- the specific threat that it poses to the UK;
- the specific threat that it poses to British nationals overseas;
- the extent of the organisation's presence in the UK; and
- the need to support international partners in the fight against terrorism.

6.3 An organisation is proscribed in the UK as soon as the Order comes into force. It is a criminal offence for a person to belong to, or invite support for, a proscribed organisation. It is also a criminal offence to arrange a meeting to support a proscribed organisation; or to wear clothing or carry articles in public which rouse reasonable suspicion that an individual is a member or supporter of a proscribed organisation.

6.4 A proscribed organisation, or any person affected by the proscription of the organisation, may apply to the Secretary of State for deproscription and, if the Secretary of State refuses that application, the applicant may appeal to the Proscribed Organisations Appeal Commission.

7. Policy background

What is being done and why?

7.1 The Home Secretary has decided to exercise the proscription power in section 3 of the Act in respect of the following organisation.

7.2 The Base is a predominantly US-based militant white supremacist group, formed in 2018. The Base draws influence from a collection of essays which advocate for the use of violence to initiate the collapse of modern society through a 'race war' and the subsequent creation of a white ethno-state. This ideology is known as 'accelerationism'.

7.3 The Base has links with other internationally-based National Socialist groups and individuals and seeks to provide terrorist training, guidance and networking.

7.4 The Base almost certainly prepares for terrorism. While it outwardly seeks to promote itself as a "self-defence and survivalist" group and refutes any claims of its involvement in terrorist activity, the training it provides is highly likely paramilitary in nature and preparatory for offensive action. This training would almost certainly enhance both the intent and capability of trainees to conduct terrorist acts. Members of The Base have engaged in weapons and explosives training.

7.5 The Base has also almost certainly promoted or encouraged acts of terrorism and elements of its membership will almost certainly continue to do so. In late 2017, the group's founder released a series of videos covering topics such as "lone wolf" activity, leaderless resistance and advocating guerrilla warfare.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Government does not assess that there is any need for consolidation measures.

10. Consultation outcome

10.1 No consultation has been undertaken in connection with this instrument.

11. Guidance

11.1 No guidance is necessary in connection with this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 If a proscribed organisation, or any person affected by the proscription of the organisation, applies to the Secretary of State for deproscription, the proscription of the organisation will be reviewed.

15. Contact

15.1 The Counter-Terrorism Pursue Unit at the Home Office can answer any queries regarding the instrument and can be contacted at the Home Office, 5th Floor, Peel Building, 2 Marsham Street, London, SW1P 4DF. Telephone (9am-5pm): 020 7035 4848.

15.2 The Deputy Director for CT Pursue Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Williams of Trafford in the Home Office can confirm that this Explanatory Memorandum meets the required standard.